



Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation	6 VAC 20 -260
Regulation title	Regulations Relating to Bail Enforcement Agents
Action title	Bail Enforcement Agent Regulations (New)
Document preparation date	09/07/2005

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Preamble

The APA (Code of Virginia § 2.2-4011) states that an "emergency situation" is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.

- 1) Please explain why this is an "emergency situation" as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

The Board and the Department are required by §9.1-102 (48) to license and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.) of this chapter effective October 1, 2005. Pursuant to §9.1-186.2 the Board "shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail enforcement within the Commonwealth. The licensure process will require that an individual submit their fingerprints to conduct a national and Virginia criminal history

records search and complete compulsory minimum training requirements. The regulations should be in place by October 1, 2005.

Legal basis

Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The legal authority to regulate bail enforcement agents is found in § 9.1-102 (48) of the Virginia Code, effective October 1, 2005, authorizes the Department, under the direction of the Board to "license and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq) of this chapter". The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective enforcement within the Commonwealth pursuant to §9.1-185.2. The Office of the Attorney General has certified that the department has the statutory authority to adopt regulations pursuant to the Code of Virginia § 2.2-4011(A)(ii).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

To promulgate the regulations for bail enforcement agents. The regulation establishes a licensure process to include a fingerprint based background check, licensure fees, compulsory minimum entry-level training standards, and administration of the regulatory system. It authorizes the department to receive complaints concerning the conduct of any person whose activities are monitored by the Board, to conduct investigations, to issue disciplinary action, and to revoke, to suspend, and to refuse to renew a license. These procedures are established ensure respectable, responsible, safe and effective bail enforcement in the Commonwealth.

A public hearing will be held during the promulgation process, participation from individuals will be strongly encouraged.

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

The regulation establishes a licensure process, licensure fees, compulsory minimum entry-level training standards including firearms training and qualifications, standards of conduct, and administration of the

regulatory system. It outlines procedures for receiving complaints concerning the conduct of any person whose activities are monitored by the Board; procedures for conducting investigations; issuing disciplinary action; and revoking, suspending, refusing to renew a licensure, and provide an appeal process pursuant to the administrative process act.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no alternatives to the proposed regulatory action.

Family impact

Please assess the impact of the emergency regulatory action on the institution of the family and family stability.

The regulations indirectly impacts the family by providing a regulatory requirement that ensures respectable, responsible, safe and effective bail enforcement within the Commonwealth. This regulatory action will result in verifying the qualifications of the individuals providing bail enforcement services through criminal history records checks and training, to ensure competency and prevent deceptive or misleading practices and increase safety towards the family unit.